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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF UTAH**

IN RE

SIMON TRANSPORTATION  
SERVICES, INC., DICK SIMON  
TRUCKING, INC., AND SIMON  
TERMINAL, LLC,

Debtors.

Bankruptcy Case No. 02C-22906  
BAP No. UT-03-038

Chapter 11

[Jointly Administered]

**STATEMENT OF ISSUES TO BE PRESENTED and**  
**DESIGNATION OF RECORD ON APPEAL**

Appellants Freightliner LLC (f/k/a Freightliner Corporation) and Freightliner Market Development Corporation (together, the "Freightliner Companies"), hereby submit both the statement of issues to be presented on appeal and the designation of items to be included in the record on appeal.



### STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL

The Freightliner Companies appeal only one issue: Whether the Freightliner Conditional Commitment to Repurchase Agreements, a.k.a. tradeback agreements, are executory contracts under 11 U.S.C. § 365, and therefore, subject to assumption and assignment.

### DESIGNATION OF RECORD ON APPEAL

The Freightliner Companies designates the following pleadings and transcripts as the Record on Appeal and requests that the same be transmitted to the Bankruptcy Appellate Panel of the Tenth Circuit:

FILING DATE	DOCKET NUMBER	PLEADING DESCRIPTION
03/11/2002	106	Motion for Approval of Sale Substantially All of the Debtors' Assets and to Approve Assumption and Assignment of Leases and Executory Contracts Filed by Simon Transportation Services Inc. and Dick Simon Trucking, Inc. (mjo,) (Entered: 03/12/2002)
03/11/2002	107	Motion for an Order approving: (1) Bidding and Auction Procedures and Sale Date for Sale of Assets: (2) the Form of Bidding, Auction and Sale Notice; and (3) The Scheduling of an Expedited Hearing on Motion for Sale Procedures, Notice, and Sales Hearing Filed by Simon Transportation Services Inc. and Dick Simon Trucking, Inc. (mjo,) (Entered: 3/12/2002)
03/21/2002	Minute Entry	Minute Entry Re: (1) Motion for an Order approving: (1) Bidding and Auction Procedures and Sale Date for Sale of Assets: (2) the Form of Bidding, Auction and Sale Notice; and (3) The Scheduling of an Expedited Hearing on Motion for Sale Procedures, Notice, and Sales Hearing. Motion granted as modified on the record. The cap topping fee is set at \$50,000.00. (2) Motion for order Compelling debtor to assume or Reject unexpired lease and granting relief from stay filed by Banc of America. The lease is rejected.

FILING DATE	DOCKET NUMBER	PLEADING DESCRIPTION
		Appearances: Laurie Crandall, Joel Marker, Lisa Epps, Thomas Lallier, Vernon Hopkinson, Jeffrey w. Shields, David Leta, Gary Jubber, Peter Billings, Mark Ferre, Randall Call, Weston Harris, Scott Goldstein, Daniel Doyle, Mark Gable, Zachary Shields, Lee Curtis, Julia Petit, Danny Kelly, Douglas Monson; (related document(s) <u>107</u> , <u>50</u> ). (th) (Entered: 03/21/2002)
03/21/2002	188	Statement of Financial Affairs and Schedules (02-22907) (jdc) (Entered: 03/22/2002)
03/25/2002	206	Order Re: Motion for an Order approving: (1) Bidding and Auction Procedures and Sale Date or Sale of Assets: (2) the Form of Bidding, Auction and Sale Notice; and (3) The Scheduling of an Expedited Hearing on Motion for Sale Procedures, Notice, and Sales Hearing (related document(s) <u>107</u> ). (mkh) (Entered: 03/25/2002)
04/08/2002	Minute Entry	Minute Entry Re: Motion for Approval of Sale of Substantially All of the Debtors' Assets and to Approval Assumption and Assignment of leases and Executory Contracts. The sale is approved as modified on the record. (2) Motion for Order Approving Stipulation Between Debtors and Orix USA Corp. for an Order Approving Rejection of Lease upon Certain Conditions. Motion granted. 3) Motion to Prohibit Use of Leased Equipment or for Relief from Stay filed by First Union Commercial Corp. Parties have reached a agreement, Exhibits received; Witness: Ken Novotny; Appearances: Jeffrey W. Shields, Paul Warner, Steve Dougherty, Gary Jubber, Peter Billings, Thomas Lallier, Vernon Hopkinson, Douglas Monson, Herschel Saperstein, Gerald Suniville, Wayne Braunberger, Robert Prine, Weston Harris, Mark Ferre, Tim Gage, Mark Gaylord, Anna Drake, Joel Dangerfield, Laurie Crandall, Randall Call, Daniel Doyle, Lisa Epps, Danny Kelly, Julia Petit, David Leta, Jeffrey L. Shields, Lee Curtis, David Paradise, Earl Scudder, Scott Goldstein, Zachary Shields; (related document(s) <u>106</u> , <u>137</u> , <u>288</u> ). (th,) (Entered: 04/02/2002)

FILING DATE	DOCKET NUMBER	PLEADING DESCRIPTION
04/09/2002	344	Motion to Assume and Assign Certain Contracts. Filed by Central Refrigerated Services, Inc. (fsl,) (Entered: 04/10/2002)
04/09/2002	344	Notice of Hearing Re: Filed by Central Refrigerated Service, Inc. (related document(s) <u>344</u> ). Hearing scheduled for 4/22/2002 at 11:00 AM at US Bankruptcy Court. (fsl,) (Entered: 04/10/2002)
04/09/2002	345	Joint Motion of Debtors and Central Refrigerated Service, Inc. to Assume and Assign Certain Contracts. Filed by Central Refrigerated Service, Inc. (fsl,) Modified on 4/23/2002 (fsl,). Entered: 04/10/2002)
04/09/2002	345	Notice of Hearing Re: Filed by Central Refrigerated Service, Inc. (related document(s) <u>345</u> ). Hearing scheduled for 4/22/2002 at 11:00 AM at US Bankruptcy Court. (fsl,) (Entered: 04/10/2002)
04/15/2002	375	Joint Motion of Debtors & Central Refrigerated Service, Inc. to Assume & Assign Certain Contracts under 11 USC (365) Filed by Central Refrigerated Service, Inc. (smh,) (Entered: 04/16/2002)
04/15/2002	375	Notice of Hearing: Filed by Danny C. Kelly on behalf of Central Refrigerated Service, Inc. (related document(s) <u>375</u> ). Hearing scheduled for 4/22/2002 at 11:00 AM at US Bankruptcy Court. (smh,) (Entered: 04/16/2002)
04/19/2002	397	Amended Schedules (jdc,) (Entered: 04/19/2002)
04/19/2002	404	Amended Schedules – Amount Paid: \$20, Receipt Number: 155051 (kam,) (Entered: 04/22/2002)

FILING DATE	DOCKET NUMBER	PLEADING DESCRIPTION
04/22/2002	407	Order Pursuant to Motion To Assume/Reject (Related Doc # <u>106</u> ), pursuant to Motion To Sell (Related Doc # <u>106</u> ) Motion for Approval of Sale Substantially All of the Debtors' Assets and to Approve Assumption and Assignment of Leases and Executory Contracts Filed by Simon Transportation Services Inc. and Dick Simon Trucking, Inc. and Granting related Relief. (bfg,) (Entered: 04/22/2002)
04/23/2002	417	Order Granting (A) Granting Joint Motion of Debtors and Central Refrigerated Services; (B) Authorizing Assumption and Assignment of Executory Contracts (Vendor Contracts); and (C) Granting Related Relief. (Related Doc # <u>345</u> ) (fsl,) (Entered: 04/23/2002)
05/02/2002	453	Motion for Reconsideration of April 22, 2002 Orders Authorizing Sale, etc. and Approving Assumption and Assignment of Executory Vendor contracts, etc. and Exclusion of the Freightliner Companies from the Effects of those Orders Filed by Freightliner LLC (related documents(s) <u>407</u> , <u>417</u> ). (kmc) (Entered: 05/03/2002)
05/02/2002	454	Memorandum in Support Filed by Freightliner LLC (related document(s) <u>453</u> ). (kmc,) (Entered: 05/03/2002)
06/04/2002	Minute Entry	Minute Entry Re: Motion for Reconsideration of April 22, 2002 Orders Authorizing Sale, etc. and Approving Assumption and Assignment of Executory Vendor Contracts, etc. and Exclusion of the Freightliner Companies from the Effects of those Orders Filed by Freightliner LLC. A stipulation was reached to extend time for discovery. The hearing on this motion will be continued without date. Parties may file an agreed order. (2) Debtor's Third Omnibus Motion for Authority to Reject Certain Executory Contracts. Motion granted with the exception of Clarendon National Insurance. Appearances: Weston Harris, Vernon Hopkinson, Thomas Beckett, Herschel Saperstein; (related document(s) <u>475</u> , <u>453</u> . (th,) Entered: 06/04/2002)

FILING DATE	DOCKET NUMBER	PLEADING DESCRIPTION
07/19/2002	641	Supplemental Motion to Assume and Assign (1) Agreement Between Dick Simon Trucking and Freightliner (s) Agreement for Conditional Commitment to Repurchase #2000-00366, (3) Agreement for Conditional Commitment to Repurchase #2001-00013 and (4) Agreement for Conditional Commitment to Repurchase #2001-00014 Pursuant to 11 U.S.C. 365 Filed by Simon Transportation Services Inc. (kmc,) (EOD: 07/22/2002)
07/19/2002	642	DBS Preliminary Response to Memorandum of Points and Authorities Supporting Freightliner's Motion for Reconsideration of April 22, 2002 Orders Authorizing Sale, etc. and Approving Assumption and Assignment of Executory Vendor Contracts, etc., and Exclusion of the Freightliner Companies from the Effects of those Orders Filed by Simon Transportation Services Inc. (related document(s) <u>454</u> ). (kmc,) (EOD: 07/22/2002)
08/06/2002	675	Notice of hearing Re: Motion for Reconsideration of April 22, 2002 Orders Authorizing Sale, etc. and Approving Assumption and Assignment of Executory Vendor Contracts, etc. and Exclusion of the Freightliner Companies from the Effects of those Orders Filed by Freightliner LLC and Debtors' Supplemental Motion to Assume and Assign 1 – Agreement between Dick Simon Trucking and Freightliner, 2 – Agreement for Conditional Commitment to Repurchase #2000-00366, 3 – Agreement for Conditional Commitment to Purchase #2001-00013 and 4 – Agreement for conditional Commitment to Repurchase #2001-00014 pursuant to 11 U.S.C. 365 Filed by Simon Transportation Services inc. (related document(s) <u>641</u> , <u>453</u> ). Hearing scheduled for 8/29/2002 at 10:00 AM and Continuing at 2:00 PM at US Bankruptcy Court. (kam, ) (EOD: 08/07/2002)

FILING DATE	DOCKET NUMBER	PLEADING DESCRIPTION
08/20/2002	699	Order Rescheduling Hearing. Joint Motion of Debtors and Central Refrigerated Service; Authorizing Assumption and Assignment of Executory Contract; Granting Related Relief (Contracts Order) Hearing Scheduled for 8/26/02 at 10:00 A.M. at U.S. Bankruptcy Court. Debtors' Supplemental Motion to Assume and Assign, Agreement between Dick Simon Trucking and Freightliner, Agreement for Conditional Commitment to Repurchase #2001-00013, and Agreement for Conditional Commitment to Repurchase # 2001-00014 Hearing Rescheduled for 9/5/02 at 10:00 A.M. at U.S. Bankruptcy Court (related document(s)[ME]) (fsl,) (EOD: 08/20/2002)
08/22/2002	701	Response to debtors preliminary response to Freightliner's May 5, 2002 Motion for Reconsideration. Filed by Freightliner LLC (related document(s) <u>674</u> . (mkh,) (EOD: 08/23/2002)
08/22/2002	702	Debtor's Response/Objection (Submission) (related document(s) <u>453</u> , <u>417</u> (jtt,) (EOD: 08/23/2002)
08/23/2002	704	Memorandum in Opposition To Filed by Central Refrigerated Service, Inc. to Freightliner's Motion for (I) Reconsideration of 4/22/02 Orders Authorizing Sale, etc. and approving Assumption and Assignment of Executory Vendor Contract, and (II) Exclusion of Freightliner companies From the Effects of Those Orders (related document(s) <u>453</u> ). (mjo,) (EOD: 08/26/2002)
08/26/2002	711	Debtors' supplemental submission Document Re: the notice issue presented by Freightliner's Motion for reconsideration. (mkh,) (EOD: 08/27/2002)

FILING DATE	DOCKET NUMBER	PLEADING DESCRIPTION
08/27/2002	710	Order Granting Motion for Reconsideration of April 22, 2002 Order Pursuant to 105(a) 363, 365 AND 1146 of the Bankruptcy Code: Authorizing the Sale of Substantially all of the Dbs Assets to Central Refrigerated Service, Inc. Free and Clear of Liens, Claims, Interests and Encumbrances, Approving the Asset Purchase Agreement and Granting Related Relief (Related Doc # <u>453</u> ) (kmc,) (EOD: 08/27/2002)
09/04/2002	716	Pending Scheduling Order (kmc,) (EOD: 09/05/2002)
09/04/2002	717	Notice of Hearing on Dbs Supplemental Motion to Assume and Assign Filed by Central Refrigerated Service, Inc. (related document(s) <u>641</u> . Hearing scheduled for 9/20/2002 at 10:00 AM at US Bankruptcy Court. (kmc,) (EOD: 09/05/2002)
09/11/2002	726	Second Scheduling Order Regarding Motion to Assume and Assign (1) Agreement Between Dick Simon Trucking and Freightliner, (2) Agreement for Conditional Commitment to Repurchase #2000-00366, (3) Agreement for Conditional Commitment to Repurchase #2001-00013 and (4) Agreement for Conditional Commitment to Repurchase #2001-00014, pursuant to 11 U.S.C. 365 (Related Doc # <u>641</u> ) (kmc,) (EOD: 09/11/2002)
09/19/2002	746	Notice of Rescheduled Hearing Re: Supplemental Motion to Assume and Assign (1) Agreement Between Dick Simon Trucking and Freightliner (2) Agreement for Conditional Commitment to Repurchase #2000-00366, (3) Agreement for Conditional Commitment to Repurchase #2001-00013 and (4) Agreement for Conditional Commitment to Repurchase #2001-00014 Pursuant to 11 U.S.C. 365 Filed by Simon Transportation Services Inc. (related document(s) <u>641</u> ). Hearing scheduled for 10/21/2002 at 10:00 AM at US Bankruptcy Court (fsl,) (EOD: 09/20/2002)

FILING DATE	DOCKET NUMBER	PLEADING DESCRIPTION
09/27/2002	755	Response to Freightliner's Memorandum of Points and Authorities Supporting its Objection to the Dbs' Supplemental Motion for Authority to Assume and Assign Trade-Backs to Central Filed by Simon Transportation Services Inc. (related document(s) <u>454</u> ). (kam,) (EOD: 09/30/2002)
10/16/2002	777	Memorandum in Support of Filed by Central Refrigerated Service, Inc. (related document(s) <u>641</u> ). (bfg, ) (EOD: 10/17/2002)
10/17/2002	777	Memorandum in Opposition To Filed by Central Refrigerated Service, Inc. (related document(s) <u>755</u> (bfg,) (EOD: 10/17/2002)
10/18/2002	782	Response to Response to Freightliner's Memorandum of Points and Authorities Supporting its Objection to the Dbs' Supplemental Motion for Authority to Assume and Assign Trade-Backs to Central Filed by Simon Transportation Services Inc. Filed by Freightliner of Utah, L.L.C. (related document(s) <u>755</u> , <u>704</u> ). (kam,) EOD: 10/21/2002)
10/18/2002	784	Affidavit/Verification of Christine A. Botosan, PH.D. (Unsigned order not FILED UNDER SEAL) (bfg,) Modified on 2/13/2003 (jtt,). (EOD: 10/21/2002)
10/18/2002	785	Memorandum in Support of Filed by Freightliner LLC, Freightliner of Utah, L.L.C. (related document(s) <u>783</u> ). Unsigned order not FILED UNDER SEAL. (bfg,) Modified on 2/13/2002 (jtt,). (EOD: 10/21/2002)
10/18/2002	786	Pending Order Re: (related document(s) <u>783</u> ) Motion for Sealing (I) Freightliner's memorandum of points and authorities and (II) Supporting Affidavit of Christine A. Botosan, PHD Filed by Freightliner LLC, Freightliner of Utah, L.L.C. (bfg,) (EOD: 12/21/2002)
10/21/2002	Minute Entry	Minute Entry Findings of Fact and conclusions of Law were made on the record. The court finds that the agreements fall within the definition of an executory contract. The court finds that the agreements were not a part of the April 8, 2002

FILING DATE	DOCKET NUMBER	PLEADING DESCRIPTION
		sale. Without consideration to support assignment of the Agreements, the Court finds that the debtor has not properly exercised its business judgment and the assignment is not in the best interest of the estate and the court denies the motion without prejudice. Having denied the motion to assign the court has determined a method by which the court will be assured that fair consideration is paid the estate for assignment of the agreements. An auction should be conducted inviting Central, Freightliner and any other party interested in bidding to participate. The Court appoints the Unsecured Creditor's Committee to serve as the auctioneer. Use of the Unsecured Creditor's Committee to structure and conduct the auction will guarantee that the sale and assignment is accomplished in an arms length transaction. Re: Appearances: Diana Gibson, Thomas Beckett, Gary Jubber, Peter Billings, Weston Harris, Mark Thornhill, Scott Goldstein, Michael Emery; (related document(s) <u>641</u> . (th,) (EOD: 10/21/2002
10/21/2002	787	Affidavit/Verification of Michael J. Cox. (Per Chambers no Order indicating to be FILED UNDER SEAL). (bfg,) Modified on 10/21/2002 (bfg,). Modified on 2/13/2002 (jtt,). (EOD: 10/21/2002)
12/03/2002	852	Order Denying Without Prejudice Dbs Supplemental Motion to Assume and Assign (1) Agreement between Dick Simon Trucking and Freightliner, (2) Agreement for Conditional Commitment to Repurchase #2000-00366, (3) Agreement for Conditional Commitment to Repurchase #2001-00013, and (4) Agreement for Conditional Commitment to Repurchase #2001-00014 Pursuant to 11 U.S.C. 365 and Authorization of Auction (related document(s) <u>641</u> ) (kmc,) (EOD: 12/03/2002)
12/05/2002	856	Motion for New Trial or, Motion To Stay of Auction Pending Appeal Filed by Central Refrigerated Services, inc. (bfg,) EOD: 12/06/2002)

FILING DATE	DOCKET NUMBER	PLEADING DESCRIPTION
12/06/2002	858	Ex Parte Motion to Limit Notice and to Shorten Time on Motion for Stay Pending Appeal and/or Motion for New Trial. Filed by Central Refrigerated Services, Inc. (mkh,) (EOD: 12/09/2002)
12/06/2002	861	Notice of Hearing related document(s): <u>858</u> Motion (Generic), Motion to Shorten Time, Motion To Stay Pending Appeal) filed by Central Refrigerated Service, Inc. Hearing Scheduled for 12/10/2002 at 10:00 AM at US Bankruptcy Court (bfg,) (EOD: 12/09/2002)
12/09/2002	860	Order Granting EX Parte Motion to Limit Notice (Related Doc # <u>858</u> , Granting Motion for Order to shorten time on Motion for Stay Pending Appeal and/or Motion for New Trial. (Related Doc # <u>858</u> ) (mkh,) EOD: 12/09/2002)
12/10/2002	Minute Entry	Minute Entry The court will grant a new hearing and allow a 45 day stay. Re: Motion for New Trial or, Motion To Stay of Auction Pending Appeal (related document(s): <u>856</u> Motion (Generic), Motion To Stay Pending Appeal filed by Central Refrigerated Service, Inc. <u>818</u> Disclosure Statement filed by Unsecured Creditors Committee) Appearances: Weston Harris, Gary Jubber, Peter Billings, Thomas Beckett, Diana Gibson, Michael Emery; (th,) (EOD: 12/10/2002)
12/10/2002	864	Response to (related document(s): <u>856</u> Motion (Generic), Motion To Stay Pending Appeal) Filed by Freightliner of Utah, L.L.C. (mjo,) (EOD: 12/11/2002)
12/13/2002	867	Motion for New Trial/Hearing (related document(s): <u>861</u> Notice of Hearing) filed by Central Refrigerated Service, Inc. (mjo,) (EOD: 12/16/2002)
12/13/2002	868	Memorandum in Support (related document(s): <u>867</u> Motion to Continue/Reschedule Hearing) Filed by Central Refrigerated Service, Inc. (mjo,) (EOD: 12/16/2002)
12/13/2002	869	Pending Order (related document(s): <u>867</u> Motion to Continue/Reschedule Hearing) (mjo,) (EOD: 12/16/2002)

FILING DATE	DOCKET NUMBER	PLEADING DESCRIPTION
12/20/2002	877	Order Granting Motion for New Trial (Related Doc #856, Granting Motion to Stay Pending Appeal (Related Doc #856 (fsl,) (EOD: 12/20/2002)
01/14/2002	Transcript of Hearing	Transcript of Hearing. Date of Hearing: 10/21/02 (nas,) (Entered: 01/15/2003)
01/16/2003	893	Notice of New Re-Hearing Related document(s): <u>641</u> Motion to Assume or Reject,) filed by Central Refrigerated Service, Inc. Hearing scheduled for 1/17/2003 at 10:00 AM at US Bankruptcy Court (bfg,) (EOD: 01/17/2003)
01/17/2003	Minute Entry	Minute Entry Re: Hearing Continued. The parties are to notify the court whether the hearing will be continued to February 10 <sup>th</sup> or 14 <sup>th</sup> by Tuesday January 21, 2003: (related document(s): <u>641</u> Motion to Assume or Reject,) Witnesses: Robert Goates, Kenneth Novotny, exhibits received; Appearances: Weston Harris, Diane Gibson, Thomas Beckett, Michael Emery, Wayne Bennett, Peter Billings; (th,) Modified on 1/22/2003 (th,). (EOD: 01/21/2003)
01/28/2003	906	Amended Notice of Cont. Hearing (related documents(s): <u>641</u> Motion to Assume or Reject,) Filed by Michael N. Emery on behalf of Central Refrigerated Service, Inc. Hearing scheduled for 02/10/2003 at 10:00 AM at R. Kimball Mosier. (smh,) (EOD: 01/29/2003)
02/10/2003	Minute Entry	Minute Entry Re: Hearing Continued.: (related documents(s): <u>641</u> Motion to Assume or Reject,) Witnesses: Earl Scudder, Robert Goates, Peter Billings, Michael Cox, Christine Botosan; Exhibits received; Appearances: Michael Emery, Wayne Bennett, Diana Gibson, Thomas Beckett, Peter Billings, Weston; Hearing scheduled for 2/12/2003 at 10:00 AM at USBC Rm 369. (th,) (EOD: 02/10/2003)
02/12/2003	Minute Entry	Minute Entry Matter is taken under advisement. Re: (related document(s): <u>641</u> Motion to Assume or Reject, Minute Entry. Hearing continued,) Appearances: Michael Emery, Peter Billings, Wayne Bennett, Weston Harris, Thomas Beckett, Diane Gibson; (th,) (EOD: 02/12/2003)

FILING DATE	DOCKET NUMBER	PLEADING DESCRIPTION
02/14/2003	Transcript of 1/17/03 hearing	Transcript of Hearing. Date of Hearing: Jan. 17, 2003 (smh,) (EOD: 02/18/2003)
02/14/2003	927	Memorandum On Limited Issue of Whether the Trade-Back Agreements are Executory Contracts – Filed by Unsecured Creditors Committee (smh,) (EOD: 02/18/2003)
02/20/2003	938	Response to Committee's Memorandum on Limited Issue Filed by Chris Farris, Freightliner LLC, Freightliner Market Development Company, Freightliner of Utah L.L.C. (kmc,) (EOD: 02/21/2003)
02/26/03	Transcript of 2/10/03 hearing	Transcript of Hearing. Date of Hearing: 2/10/03 (bfg,) (EOD: 02/26/2003)
04/29/2003	1023	Order Denying Motion To Reconsider (Related Doc #641) (jtt,) (EOD: 04/29/2003)
05/07/2003	1029	Notice of Appeal Receipt Number: 196873 Fee Amount \$105 (related documents(s): <u>1023</u> Order on Motion to Assume/Reject) Filed by Freightliner LLC, Freightliner Market Development Company, Freightliner of Utah, L.L.C. Appellant Designation due by 5/19/2003. Certificate of Readiness Due Date 6/17/2003. (tjc) (EOD: 05/18/2003)
01/17/2003 & 02/10/2003 & 2/12/2003		<b>All exhibits</b> admitted during the January 17, 2003, February 10, 2003 and February 12, 2003 hearings on Central Refrigerated, Inc.'s Motion for Reconsideration.

DATED this 20<sup>th</sup> day of May 2003.

PARSONS BEHLE & LATIMER

By 

J. THOMAS BECKETT

DIANNA M. GIBSON

Attorneys for the Appellants

**CERTIFICATE OF SERVICE**

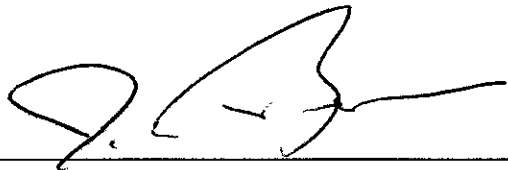
I hereby certify that on this 20<sup>th</sup> day of May 2002, I caused to be mailed, first class, postage prepaid, a true and correct copy of the foregoing **STATEMENT OF ISSUES TO BE PRESENTED AND DESIGNATION OF RECORD ON APPEAL** to:

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